

City of Bloomington, Minnesota City Manager Employment Agreement

AGREEMENT made this 1st day of August, 2016, by and between the City of Bloomington, Minnesota, a Minnesota municipal corporation ("Employer") and James D. Verbrugge ("Employee"). The parties agree as follows:

1. **POSITION.** Employer has employed Employee as its City Manager since February 2, 2015 and wishes to continue to do so. Employee agrees to continue to serve as City Manager in accordance with state statutes, City Charter and ordinances and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.
2. **TERM.** The term of the Agreement shall be August 1, 2016 through July 31, 2018. However, nothing in this Agreement shall prevent the City Council by majority vote of all of its members, from discharging the Employee at will, in accordance with Section 6.01 of the City Charter.
3. **RENEWALS.** This Agreement may, by a majority vote of all the members of the City Council at least 180 calendar days before its expiration, be extended on the same terms and conditions for additional periods of one, two or three years. Failure to renew at least 180 calendar days before the expiration of an existing Agreement will result in expiration of the Agreement. Written notice of the Agreement's expiration must be given to the Employee at least 180 calendar days before the expiration of any such period, subject to Section 6.01 of the City Charter. If notice of expiration is not given at least 180 calendar days in advance, Employee may continue work past the termination date under the same terms and conditions herein until 180 calendar days has elapsed from the time notice of expiration is given. Upon expiration of the Agreement, the Employee shall be entitled to Severance Pay under Paragraph 17 (a) hereof.
4. **SALARY.** Employer shall pay Employee an annual base salary of \$169,870, in installments at the same time as other employees of the City are paid, and subject to the maximum compensation limit as set forth in Minnesota state law. This base salary will be subject to deductions for taxes, FICA, deferred compensation, PERA, health insurance and employee authorized charitable giving in the same manner as other City employees. Except as otherwise provided herein, Employer will review Employee's compensation on an annual basis during the term of this Agreement and the Agreement shall be amended automatically to reflect any salary adjustments that are provided or required by the Employer's compensation policies.
5. **PERFORMANCE EVALUATION.** It is the intent of the parties that there is open and constructive communication between the City Council and City Manager regarding the City Manager's performance and the City Council's expectations regarding such performance. Employer and Employee also agree that a performance review will be conducted on Employee on an annual basis. The process for the Employee evaluation will be mutually agreed upon by the Employer and Employee. The process at a minimum will include the opportunity for both parties to: 1) prepare a written evaluation; 2) meet and discuss the evaluation; 3) present a written summary for the personnel file; and 4) must meet or exceed the standards established by the International City/County Management Association ("ICMA"). The City Council retains flexibility to amend and adjust the schedule and process as may be needed.
6. **PENSION PLAN.** Employer shall contribute to PERA as required by State law for Employee or elect to contribute to an alternate pension plan as authorized by state law and selected by the Employee. Employee shall also contribute to any other benefit plans consistent with the benefits provided to other full time, non-union employees that work for the City.

7. **PAID TIME OFF (PTO).** Personal leave and vacation time of the Employee shall initially accrue at the rate of that of a City employee in their 20th year of employment in accordance with the City's policy (Five weeks annual vacation of 16.67 hours per month and 8.67 hours of personal leave per month). The administration and use of PTO and Personal Leave by the Employee shall be consistent with the City's Personnel Policy.

8. **HOLIDAYS.** Employer shall provide Employee the same holidays as enjoyed by other full-time non-union employees.

9. **GENERAL INSURANCE.** Employer shall offer and provide and pay on behalf of Employee for such health, life, dental and disability insurance benefits including the Employee's dependents at the same rate and upon the same terms as that which is offered and/or provided to all other employees.

10. **GOVERNMENTAL, CIVIC AND PROFESSIONAL ASSOCIATIONS.** Employer will pay the professional dues and subscription fees of Employee in, or to, such national, regional, state, civic, and local governmental and professional associations and organizations, including institutions of higher education, that are reasonably necessary and desirable for Employee's professional participation, advancement, improvement and growth, and which will benefit his service to Employer. Employer recognizes the desirability of representation in and before local civic and other local organizations as deemed appropriate by him and at the Employer's expense. The Employer will pay Employee's dues and fees for membership in the International City/County Management Association and Minnesota City/County Management Association.

11. **TRAVEL, REGISTRATION AND EXPENSES FOR PROFESSIONAL DEVELOPMENT.** Employee's professional growth and development is an important priority for the Employer and the Employee. Employer may budget and pay necessary and reasonable registration, travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other committees thereof which Employee serves as a member. Employee shall use good judgment in Employee's outside activities and will not neglect his primary duties to the Employer. Professional development includes, but is not limited to, ICMA and MCMA, and other identified opportunities that may arise from time to time. Attendance at the annual conference of the ICMA is subject to the City's budget and travel policies.

12. **GENERAL EXPENSES.** Employee shall be reimbursed for other job-related expenses which it is anticipated Employee will incur from time to time, with appropriate documentation and in accordance with City's policies and procedures.

13. **LIFE INSURANCE.** Employer will pay the premiums for life insurance coverage for Employee in the amount of \$370,000, or the maximum amount of coverage the Employer, using the Employer's best efforts, finds available for the Employee, whichever is less, in the manner and upon the same terms as that which is offered and/or provided to all other employees of the Employer.

14. **HOURS OF WORK.** Employee will be available during regular business hours. It is understood that the position of City Manager requires attendance at evening meetings and occasionally at weekend meetings. It is understood by Employee that additional compensation and compensatory time shall not be allowed for such additional expenditures of time. It is further understood that Employee may absent himself from the office to a reasonable extent in consideration of extraordinary time expenditures for evening and weekend meetings at other than normal working hours.

15. **INDEMNIFICATION.** Employer shall defend and indemnify Employee pursuant to Minnesota Statutes, Chapter 466.07 and Chapter 465.76. However, such indemnification shall not extend to criminal acts or intentional acts of torts committed by the Employee. In addition, Employer shall defend, hold harmless and

indemnify Employee from all non-intentional torts; civil damages, penalties, and fines; violations of statutes, laws, rules and ordinances, provided Employee was acting in good faith in the performance of the duties of the position. Nothing in this paragraph shall be deemed to be a waiver by the City of any limitations on liability set forth in Minnesota Statutes, Chapter 466.

16. TERMINATION PROVISIONS.

(a) **Employer Initiated Termination Prior to End of Contract Term.** Notwithstanding anything to the contrary in this Agreement, the Employer may, by a majority vote of the City Council in attendance at any lawfully called meeting, terminate the Employee. In the event that Employee is terminated by the Employer without a finding of Gross Misconduct, as defined herein, and at a time that Employee is willing and able to perform the duties of City Manager, then Employer agrees to pay Employee at the time of receipt of last pay check a lump sum cash payment equal to six months aggregate salary ("Severance Pay"). In the event of such termination, the Employee shall have such rights to COBRA as other employees and shall be compensated for any unused accrued benefit time consistent with City policies.

(b) **Employer Initiated Termination Prior to End of Contract Term for Gross Misconduct.** "Gross Misconduct" includes, without limitation, malfeasance in office, inducing or attempting to induce any employee of the Employer to commit an unlawful act or to act in violation of an official regulation or order, conduct in private life that adversely affects the Employee's ability to perform fully the duties of City Manager, dishonesty in the performance of duties, conviction for a felony, or conviction for an illegal act involving moral turpitude or personal gain to Employee. In the event Employee is terminated at any time because of Employee's Gross Misconduct, then Employer shall have no obligation to pay the Severance Pay. In the event that, at the time of termination, the Employee is under investigation by any law enforcement agency for a felony or an illegal act involving moral turpitude or personal gain to the Employee, the Employer may withhold all or part of any Severance Pay until it is determined if charges will be filed and if charges are filed until a final judgment is rendered.

(c) **Employee Initiated Termination Prior to End of Contract Term.** Due to the important nature of the Employee's duties to the Employer, the Employee must provide the Employer with thirty (30) days written notice prior to the date he ceases to perform the duties of City Manager and the responsibilities set forth in this Agreement. In the event of such termination, the Employee shall have such rights to COBRA as other City employees and shall be compensated for any unused accrued benefit time consistent with City policies, but shall not be entitled to any Severance Pay.

17. GENERAL CONDITIONS OF EMPLOYMENT. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate the services of Employee at any time, for any reason, subject only to the provisions of this Agreement and statutory requirements. Furthermore, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with Employer, subject only to the provisions of this Agreement.

18. AMENDMENTS. No provisions in this Agreement shall be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing by both parties. No waiver, or either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement shall be deemed a waiver of other provisions or conditions hereof.

19. CHOICE OF LAW AND VENUE. This Agreement shall be governed by and constituted in accordance with the laws of the State of Minnesota.

20. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties with respect to employment relationship between the City as Employer and the Employee as City Manager, replaces all prior discussions and understandings, and the parties agree that there were no inducements or representations leading to the execution of this Agreement except as herein contained. In the event of a conflict between this Agreement and the Employer's generally applicable employee benefits plan, employment rules or other terms and conditions of employment, the terms of this Agreement shall prevail.

21. **SEVERABILITY.** In case any one or more of the provisions of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

EMPLOYER -- City of Bloomington

EMPLOYEE

Mayor

Dated _____

Dated _____

Attest

Dated _____